

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF MICHIGAN
3 SOUTHERN DIVISION

4 UNITED STATES OF AMERICA,

5 Plaintiff,

6 -v-

Case No. 12-20598

7 MICHAEL WINANS, JR.,

8 Defendant./

9 **SENTENCING HEARING**

10 **BEFORE HON. SEAN F. COX**

11 United States District Judge
12 257 U.S. Courthouse
13 231 West Lafayette Boulevard
14 Detroit, Michigan 48226

15 **(Wednesday, February 27, 2013)**

16 APPEARANCES: ABED E. HAMMOUD, ESQUIRE
17 Appearing on behalf of the Government.

18 WILLIAM M. HATCHETT, ESQUIRE
19 Appearing on behalf of the Defendant.

20 COURT REPORTER: MARIE METCALF, CVR, CM
21 Federal Official Court Reporter
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U.S.A. v. Michael Winans, Jr.

1 Detroit, Michigan

2 Wednesday, February 27, 2013

3 At about 2:09 p.m.

4 * * *

5 DEPUTY COURT CLERK: All rise. The United States
6 District Court for the Eastern District of Michigan is in
7 session, the Honorable Sean Cox, presiding. Please be seated.

8 The Court calls case number 12-20598, United States
9 of America versus Michael Winans, Jr. Counsel, your
10 appearances for the record please.

11 MR. HATCHETT: For the record, Your Honor, William
12 Hatchett. I appear on behalf of Michael Winans, Jr.

13 THE COURT: All right. Good afternoon, Mr. Hatchett.

14 MR. HATCHETT: Good afternoon, Your Honor.

15 MR. HAMMOUD: Good afternoon, Your Honor. Abed
16 Hammoud on behalf of the United States.

17 THE COURT: And good afternoon, Mr. Hammoud.

18 And I guess you have the agent in charge here, as
19 well?

20 MR. HAMMOUD: Yes, Your Honor, Special Agent Sean
21 Miller from the FBI.

22 SPECIAL AGENT MILLER: Good afternoon, sir.

23 THE COURT: Good afternoon.

24 All right. I have carefully reviewed the presentence
25 report, the Rule 11. I have carefully reviewed the letters

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1 from the victims of the Ponzi scheme. I've carefully reviewed
2 the letters from Mr. Winans' family and friends. I've
3 carefully reviewed the government's sentencing memorandum as
4 well as the defendant's sentencing memorandum.

5 Now, of course the guidelines are advisory. Have
6 they been correctly scored at 151 to 188?

7 MR. HAMMOUD: Correctly on behalf of the government,
8 Your Honor.

9 MR. HATCHETT: They are, Your Honor.

10 THE COURT: Okay. And of course the guidelines with
11 respect to the fine have been noted as \$17,500 to \$175,000. Is
12 that correct as well?

13 MR. HAMMOUD: Correct, Your Honor.

14 MR. HATCHETT: That's correct Your Honor.

15 THE COURT: The plea has been accepted. The Rule 11
16 has not been accepted. Is there a motion for the Court to
17 accept the Rule 11?

18 MR. HAMMOUD: I would move that the Court accepts the
19 Rule 11.

20 MR. HATCHETT: I join in the motion, Your Honor.

21 THE COURT: All right, the motion is granted.

22 Mr. Hatchett, have you had the opportunity to review
23 the presentence report with your client?

24 MR. HATCHETT: I have, Your Honor. The record should
25 reflect that I have spent a great deal of time with Mr. Winans.

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1 We have gone thoroughly through the report and we have sent to
2 the probation department any objections that we had to the
3 report, which objections at this point we're going to withdraw.

4 THE COURT: And it's my understanding, and please
5 correct me if I'm wrong, the objection involved the issue of
6 restitution. And currently, restitution has been correctly
7 noted at \$4,796,522; is that correct?

8 MR. HATCHETT: That is correct, Your Honor.

9 THE COURT: Mr. Hammoud?

10 MR. HAMMOUD: That's correct, Your Honor. Would you
11 want me to wait to go into the restitution details or do it
12 now? I have a couple of items, that's all.

13 THE COURT: It's your call.

14 MR. HAMMOUD: I can do it right now, since this came
15 up. We submitted to the Court, and defense counsel and
16 probation, a report with the details of the names of the
17 victims and the amounts as known as of today.

18 I also let the Court know actually in our sentencing
19 memorandum that there may be additional victims we did not know
20 about who did not know about the hearing, who did not come
21 forward, and because of the publicity surrounding the case,
22 they may be coming forward.

23 If there is additional, we will submit them to the
24 Court as soon as possible and give copy to counsel to give him
25 a chance to contest them if they like to. At this point, we

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1 have 612 victims who gave amounts, and that's how we arrived to
2 this amount, Your Honor.

3 THE COURT: Mr. Hatchett?

4 MR. HATCHETT: Yes, Your Honor. The record should
5 also reflect that we've had an extensive amount of conversation
6 regarding this issue.

7 And although the government is aware of the fact that
8 given the structure of this alleged scheme, that the defendant,
9 Mr. Winans, is not in a position to even know a great number of
10 the people who have submitted claims. But we suggest to the
11 Court that we leave the issue open with respect to any further
12 --

13 THE COURT: But as of today it is, \$4,796,522; is
14 that correct?

15 MR. HATCHETT: That is correct, Your Honor.

16 MR. HAMMOUD: That's correct, Your Honor. Yes.

17 THE COURT: Okay. So Mr. Hatchett, back to you.
18 It's my understanding you've had the opportunity to review the
19 presentence report with your client.

20 So my next question to you is, do you have any
21 objections, additions, corrections or deletions that you wish
22 to bring to my attention?

23 MR. HATCHETT: No, Your Honor.

24 THE COURT: Mr. Hammoud, have you had the opportunity
25 to review the presentence report?

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1 MR. HAMMOUD: Yes, Your Honor, we have.

2 THE COURT: Any do you have objections, additions,
3 corrections or deletions that you wish to bring to my
4 attention?

5 MR. HAMMOUD: No, Your Honor, other than the
6 amendment we've filed -- not the amendment, but the details of
7 restitution.

8 THE COURT: Yes, but I guess there's no issue now,
9 correct?

10 MR. HAMMOUD: Yes, Your Honor.

11 THE COURT: Mr. Winans, have you had the opportunity
12 to review the presentence report with Mr. Hatchett?

13 DEFENDANT WINANS: Yes, Your Honor.

14 THE COURT: And do you have any objections,
15 additions, corrections or deletions that you wish to bring to
16 my attention?

17 DEFENDANT WINANS: No, Your Honor.

18 THE COURT: All right. Mr. Hatchett, is there
19 anything you wish to say on behalf of your client before I
20 impose sentence?

21 MR. HATCHETT: Yes, Your Honor. May I approach the
22 podium?

23 THE COURT: Sure.

24 MR. HATCHETT: Your Honor, with respect to the issues
25 involved in this case, as the Court has noted there was a Rule

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1 11 that has been entered and the Court has accepted that Rule
2 11.

3 And contained in that document is the government's
4 outline of what they believe this case involved. And we are
5 not here to in any way impugn the integrity of any person who
6 is affected or impacted by this scheme.

7 As the Court has duly noted, and I appreciate the
8 fact that the Court gave us an opportunity to discuss this
9 matter in chambers. And having spent a considerable amount of
10 time with this Court in the last two months, I am satisfied
11 that you have thoroughly reviewed everything that we have
12 submitted.

13 Having said that, one of the things that the Court
14 outlined during the course of our discussion was the fact that
15 the Court is aware of the fact that this scheme did not emanate
16 with my client.

17 However, as noted in the presentence investigation
18 and also in the defendant's sentencing position, when he became
19 aware of it he did not do the honorable thing and stop it.
20 That I know is disturbing to the Court and something that my
21 client has to be held accountable for.

22 Having said that, the sea of anger that has been
23 precipitated or caused by this is something that cannot be
24 ignored. And I know many of the defendant's family members
25 very well for many years and I know them to be persons of

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1 stature and integrity. And they are extremely upset and
2 disappointed at the events that bring us before the bar today.

3 The defendant himself has had an exemplary young
4 life. He's a young man, but has been very successful in a lot
5 of things, including music, where he was honored to even
6 receive a Grammy award -- a nomination for a Grammy. He has
7 done many good things, as noted in the many letters of support
8 that you have received.

9 However, the victims of this scheme have called out
10 to the probation department and to the government to seek
11 redress. The question becomes how does the Court to do that
12 and what measure of punishment is necessary in order to deter
13 others from committing like acts and to punish the defendant
14 for his conduct pursuant to the objectives of 3553 of the
15 United States Code?

16 I submit to the Court that having dealt with this
17 young man for many years, and having had the input of his
18 family in terms of the support they have given him, it is well
19 within the Court's discretion to show mercy and to give him an
20 opportunity to try to right some of the wrong that he has done.

21 He will continue to be open, and as noted by Mr.
22 Hammoud during the course of our discussion, he has been
23 extremely cooperative. How much that impacts this Court is
24 something that can only be determined after the Court hears
25 both sides of the issue.

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1 I submit to the Court that having known the family
2 and the shame that he has brought upon them, he is extremely
3 remorseful and he regrets to this day the acts that led him to
4 involve himself in this insidious endeavor.

5 I ask that the Court look at the guidelines and
6 interpret them in a way that is compassionate, but also at the
7 same time metes out an appropriate sentence.

8 That's all I can ask of the defendant. And as
9 indicated, he will continue, and I assure you he will continue
10 to assist the government in every way possible to right this
11 wrong and to try to get these people some measure of
12 compensation if at all possible.

13 The only other issue that I have to indicate -- that
14 I would like to indicate to the Court is, Mr. Winans has asked
15 for an opportunity to address this Court and I have advised him
16 that that is his right, but that he should look at it from a
17 perspective of understanding that no words can be said that's
18 going to change the course of conduct that has led us to this
19 day.

20 I'd ask that the Court take into consideration the
21 sentencing memorandum that we filed and take into consideration
22 the fine investigation that the government did, and I have to
23 commend them for that, because they did spend a lot of time on
24 this case. And I know that they did it not from a perspective
25 of being vindictive, because I've had an opportunity to work

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1 with the agent and with the U.S. attorney, and I know that they
2 are here because they must be.

3 But I'd ask the Court to take all factors that I've
4 outlined in the sentencing memorandum into consideration in
5 passing judgment. Thank you, Your Honor.

6 THE COURT: Thank you, Mr. Hatchett and I certainly
7 will.

8 MR. HATCHETT: Thank you.

9 THE COURT: Mr. Hammoud, is there anything that you
10 wish to say on behalf of the government before I impose
11 sentence?

12 MR. HAMMOUD: Yes, Your Honor. Before I do that, did
13 I understand that Mr. Hatchett clearly said that the defendant
14 waives his right to address the Court today?

15 THE COURT: No, no, I think he --

16 MR. HATCHETT: He wants to, but I -- yes, he does
17 want to address the Court.

18 MR. HAMMOUD: So he would?

19 MR. HATCHETT: Yes.

20 MR. HAMMOUD: Okay. I didn't understand.

21 MR. HATCHETT: I'm sorry.

22 MR. HAMMOUD: Your Honor, I do have -- I'd like to
23 address the Court.

24 THE COURT: How about if -- you have three
25 individuals who wish to speak, three victims; is that correct?

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1 MR. HAMMOUD: Two actually, Your Honor. Do you want
2 them to speak before I do?

3 THE COURT: I think that might be a good way of doing
4 it.

5 MR. HAMMOUD: Yes, Your Honor. I'd like to call Ms.
6 Tara Hurt. To the podium Your Honor?

7 THE COURT: Yes, please. And please speak up loudly
8 and just relax, okay, and I know this is difficult for you. So
9 first of all, give us your name, please.

10 MS. HURT: My name is Tara Hurt.

11 THE COURT: You may proceed. Thank you.

12 MS. HURT: Your Honor, this is a day that I wish
13 would never have happened. I would prefer not to be here,
14 period. What I would like to say is that myself and my
15 husband, we've experienced just turmoil for the last five
16 years. Our family, our friends have been affected by this
17 whole thing. Both of our mothers who were both senior
18 citizens, my mother passed away September 19th without ever
19 recovering the money that she used thinking it would help her.

20 We have many family members, many close friends, many
21 coworkers of my husband's that have been affected. Marriages
22 have been ruined. Our marriage was deeply affected, almost
23 ruined as well.

24 My husband has experienced a lot of reaction from
25 coworkers on his job. His vehicle was vandalized in the

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1 parking lot. He was questioned on a daily basis. He couldn't
2 get through his shift at work without being approached by many
3 coworkers asking questions that he didn't have answers to.

4 And I just think that it's really sad that we even
5 have to be here and have to go through what we've gone through
6 these last five years. It's just been -- it's something that I
7 can't even explain. It's been -- it's affected us emotionally,
8 physically, you know, mentally.

9 It's something that I personally thought I would
10 never have to go through. I didn't think that I would ever
11 fall for anything like this. I mean, if you asked me, I would
12 never ever, in a million years think that this was something
13 that I would be doing right now. It's just really sad.

14 And I'm not here to have an effect on the judgment,
15 because I know that overall God is the judge. And I just need
16 to express how I feel, what we've gone through. And I know
17 there's lots of marriages that have been destroyed. I've been
18 told this and I have seen this. So I know lots of family
19 members that won't even speak.

20 THE COURT: And it's actually reflected in different
21 victims letters that I have read, so I know what you're saying.

22 MS. HURT: Yes, yeah. I know family members that are
23 not even speaking to their other family members because of it.
24 And if you don't have your family, what do you have? Us
25 personally, our family and our close friends, they know that we

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1 are people of integrity and we haven't had that problem, but we
2 did because of what we experienced and what we had to go
3 through a daily basis. It did almost result in the loss of our
4 relationship and our marriage.

5 THE COURT: Okay. Thank you very much for coming in.

6 MS. HURT: Thank you.

7 THE COURT: And I have heard you, okay?

8 MS. HURT: Thank you.

9 MR. HAMMOUD: I'll have Mr. Calvin Jackson --

10 THE COURT: All right. Mr. Jackson?

11 Mr. Jackson, come on up to the podium. And relax,
12 take a deep breath, and first of all, give us your name.

13 MR. JACKSON: Calvin Jackson, Jr.

14 THE COURT: Okay.

15 MR. JACKSON: This too is really tough for me as
16 well. I'm torn both ways, because I looked at him, I trusted
17 him, I confided a lot in him.

18 My family was affected horribly. Had to move out of
19 our home, had to turn my truck in. My father and I was best
20 friends, talked every single day. But when my father came into
21 this scheme, he stopped talking to me. My father and his wife
22 separated. Then my wife had issues. So many people were
23 affected by somebody that I trusted dearly. So many death
24 threats to my life. I went to my door one time with my
25 one-year-old daughter in my hand and a guy was on my porch with

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1 a hoodie on, demanding -- questions, asking me where he lived.
2 And because I trusted him, I didn't tell the guy. Because I
3 believed him, I didn't tell the guy. Because I loved his
4 family, I didn't tell the guy. I broke bread with them. That
5 means something to me.

6 This is the hardest day of my life, because of who I
7 am, I have to forgive him. Me, personally, I have to forgive
8 him because of who I am.

9 But it's affected so many people, I feel so bad for
10 him, I feel so bad for us. I'm torn. But what I do know is,
11 if we all somehow put this behind us, you know, we can move on,
12 pray for each other and hopefully nothing like this ever
13 happens again to anybody.

14 THE COURT: All right. Thank you very much for
15 coming in. Okay?

16 Mr. Hammoud?

17 MR. HAMMOUD: Yes, Your Honor.

18 As you mentioned earlier, I had said to you that
19 three people will speak. You notice that only two spoke. The
20 other -- actually there are two other people too, and they said
21 they were too emotional to be able to speak. And I know the
22 Court is aware of the emotions in this case because the Court
23 read more than 50 victim impact statements that we submitted.
24 And the Court sees that there are more than 50 victims here
25 attending. And I talked to them and expressed to them that the

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1 Court does read the impact statements, so they don't all need
2 to speak to you, but they know --

3 THE COURT: I have read all the victim impact
4 statements.

5 MR. HAMMOUD: That they know their voice are heard
6 through the documents and also through all the information you
7 have.

8 Your Honor, of course we stand by everything we wrote
9 in our sentencing memorandum, so not going to repeat
10 everything. But there are a few things I'd like to bring the
11 Court's attention to as you ponder what sentence you give the
12 defendant. Of course, our position is to give them a sentence
13 within the guidelines.

14 As you heard from the last two people who spoke here,
15 this is not -- this didn't just impact peoples' pockets and
16 their livelihood. People were threatened, people were scared,
17 marriages broke up, families have broken up.

18 And the reason is -- and I know the Court is aware of
19 the facts, but without going over too much over the facts, the
20 reason is, the scheme was organized, the defendant would have
21 people go and recruit other people for him for people to invest
22 in his scheme, which means in many instances people took their
23 life savings and gave them to a friend or a relative who was
24 not the defendant, who gave in turn to the defendant and
25 vice-versa.

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1 People went and recruited, because if you believe
2 that something is a good investment, these are the people who
3 believed in the defendant, the first thing you want to do is
4 include the people you love, not the people you hate. So
5 people went and recruited people they loved to say, "Give me
6 money. I'm going to invest it for you with Michael Winans."

7 And of course, using the Winans -- you know Michael
8 Winans' reputation and the good reputation of the family, the
9 people started giving their relatives and friends.

10 What it all came out that this was a scheme, this was
11 a fraud, people were not necessarily only angry at the
12 defendant. They were angry at the people who they loved
13 before, who they trusted, who were their friends, the people
14 who they actually handed the cash to before it went to the
15 defendant.

16 That's why you hear many people, through their
17 statements and today saying, "I was threatened." Because when
18 you give somebody money and it turns out it's a fraud, you go
19 to the door of that person you gave the money to. So
20 defendant's action caused people to hate each other, to
21 threaten each other. There were threats of violence and some
22 violence was perpetrated. You know this from the reports, Your
23 Honor.

24 And I read the letters of support that were submitted
25 to the Court, also. And we're not oblivious of them as the

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1 government. We know the defendant has a family, as
2 Mr. Hatchett mentioned. And it's a good family and he was
3 raised in a good way.

4 The problem is, when I read these letters -- I read
5 them all, and people talk about how friendly, how helpful, how
6 nice about all the good characteristics. Unfortunately, unlike
7 in a violent criminals, criminals in white-collar crime, these
8 are the tools of their trade, to be friendly, to be
9 trustworthy, to help everybody because you want people to trust
10 you.

11 So while it may look like these are great things to
12 weigh on behalf of the defendant, they could be seen also,
13 these are tools of the trade he used to have people to invest
14 with him. That's the problem.

15 And Your Honor read the quotes from some of the
16 victims that I included in the sentencing memorandum we
17 submitted, and you saw how calculated the scheme was, how he
18 used religion, he used the church, he used the good reputation
19 of a good family to have people to trust him. And one sentence
20 that I bolded, and it stuck with me, one of the victims wrote,
21 because she invested, I believe, a few thousand dollars
22 compared to others who invested hundreds of thousands, she
23 said, "To some, it may not seem like a lot of money. To me it
24 was everything I had," or something to that extent.

25 I know I don't have to tell this Court how serious

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1 this is and I don't know what sentence can satisfy the victims
2 in this case, what sentence can make them whole, what sentence
3 can mend the injuries, the emotional and other, the impact this
4 defendant had on many, many people, maybe more than 1,000
5 people.

6 I know the Court exercises discretion wisely and I
7 know the Court will take into account everything that was
8 submitted. And again, I renew my request that the Court
9 sentence the defendant to several years of incarceration within
10 the guidelines.

11 Thank you, Your Honor.

12 THE COURT: All right. Thank you very much, Mr.
13 Hammoud.

14 Mr. Winans, you have the right to speak on your own
15 behalf. Is there anything that you wish to say to me before I
16 impose sentence?

17 DEFENDANT WINANS: Yes, Your Honor.

18 THE COURT: You may proceed.

19 DEFENDANT WINANS: Good afternoon, Your Honor.

20 First, I wanted to apologize to everyone who was
21 involved in this situation. There were some decisions that I
22 made that were negligent and that were even irresponsible in
23 nature, and as a result, it cost people financial and also
24 emotional damage. And for that I repent.

25 My prayers that God will be able to mend and heal

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1 their hearts. And if there's been faith lost in man and also
2 in God, that that will also be restored.

3 There was absolutely zero percent malicious intent on
4 my part. When this investment was presented to me, I thought
5 it was a good one. And so I shared that with people who I
6 cared about. And because I was so confident in it, I told them
7 that they could share with people who they cared about, because
8 I wanted people to be able to have a better life.

9 It wasn't for the sake of me trying to hurt anybody
10 or to try to take from the hard worker each day for my own
11 lavish living or anything like that. That's not in my heart.
12 It's never been and it never will be.

13 I've been a giver all my life. And when I found out
14 midway in this investment that the investment was over, there
15 was a substantial amount of money that was owed back to people
16 who had invested. And so I had a choice, a choice to inform
17 them that the investment was over, that there was a likelihood
18 that they would not receive their money back or to continue on
19 in hopes of being able to find an investment that would be able
20 to take care of that outstanding debt. Not to continue this
21 thing on, and on and on. It was much more of a burden than it
22 was of a help for me.

23 And so I plead for mercy. I believe that if a light
24 was to shine on all of our darkest moments, our worst sins, if
25 a light was to shine on that thing which we feel least proud

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1 about, a light, I believe we would all plead for mercy.

2 And so I ask your forgiveness because my heart has
3 never been to take from any man on this earth or any woman.
4 And I did make mistakes, but I accepted those mistakes. And
5 again, I ask for your mercy so that I can right this wrong much
6 sooner than later.

7 THE COURT: All right, thank you very much.

8 DEFENDANT WINANS: Thank you.

9 THE COURT: Mr. Winans, you pled guilty to Count One,
10 wire fraud, with a Rule 11 on October 3rd of last year, 2012.

11 In a moment I'm going to impose a sentence sufficient
12 but not greater than necessary to comply with the purposes set
13 forth in 18 U.S.C. Section 3553(a).

14 I've considered the nature and circumstance of the
15 offense. This is a very, very serious offense that has ruined
16 many lives. From approximately October of 2007 through
17 September 2008, you operated the Winans Foundation Trust and
18 represented that the trust was a company investing in crude oil
19 bonds in Saudi Arabia. In fact, these representations were
20 made in more than one church.

21 You initially recruited 11 individuals whom you
22 called shareholders in the trust to invest in the crude oil
23 bonds. You required the shareholders to solicit additional
24 investors, to incorporate businesses to hold the funds provided
25 by the investors they solicited and to send investor funds to

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1 the trust.

2 As early as December of 2007, you became aware that
3 the Saudi Arabian crude oil bond did not exist as an investment
4 vehicle, yet you did not disclose this fact to the existing
5 investors. And with the intent to defraud, you continued to
6 solicit funds for the trust.

7 As a result, you obtained over \$8 million from more
8 than a thousand victims. You then converted some of the
9 victims' investment money to your own personal use, and also,
10 in Ponzi scheme fashion, gave some of the later victims' money
11 to the earlier victims and falsely represented to them that
12 this was a return on their quote, unquote investments.

13 Right now, I received many letters from the victims
14 and I just want to highlight and note a few of the letters,
15 what the victims have said to me. I'm not going to name any
16 names.

17 One victim,

18 "Since this fraudulent investment scheme, we have
19 lost almost everything. We have lost our savings,
20 our childrens' college investments also had to be
21 cashed in in order to survive. In lieu of
22 college, my daughter had to enlist in the Army
23 against her wishes and ours because we really had
24 no choice."

25 What really jumped out at me, it has been referenced earlier in

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1 the sentencing hearing, was this one letter I read.

2 "I was convinced that this was a totally safe
3 investment. Michael Winans stood in church
4 pulpits on several occasions and spoke about the
5 crude oil investments and it was guaranteed that
6 we would not lose on this and emphasis was put on
7 the initial investment surely guaranteed. I used
8 my money I had in savings and borrowed on my
9 charge cards to make the investments."

10 Again, I note that on at least more than one occasion you went
11 to church and from a pulpit solicited funds, perpetrated fraud
12 on these good, decent churchgoing people. That is -- that was
13 very, very, very troubling to me.

14 Another individual writes,

15 "I'm a senior citizen and also I'm on a fixed
16 income. I invested my money with you."

17 And she lost the money that she invested with you.

18 And I have another letter from another senior citizen
19 who invested money with you and lost all their money because of
20 the investment with you.

21 Another individual writes,

22 "We trusted Mike because we knew him and his
23 family for years. I'm so sorry this happened.

24 I'm so sorry that I lost \$5,000."

25 One family member or ex-family member, writes that her

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1 immediate family lost over \$250,000.

2 Another individual writes,

3 "My husband and I are victims of Michael Winans'

4 Ponzi scheme in the amount of \$116,000 as of

5 August of 2007. We've suffered most financially,

6 for the money that we entrusted to Mike was our

7 entire life savings. As I mentioned, we did end

8 up borrowing money just to keep things afloat. We

9 initially had no debt and planned on being -- put

10 in a position to maintain our childrens'

11 educational expenses and other investment

12 endeavors."

13 And then she writes,

14 "I view pictures of Michael driving high-priced

15 cars or -- I viewed pictures of Michael driving

16 high-priced cars, living a lavish life and

17 socializing with celebrity-types via social

18 media."

19 Another writes,

20 "This silver-tongued con man used his family name

21 to give us a false sense of trust, that he was an

22 upstanding person, even went so far as to stand up

23 in front of a church and said, 'Would I be using

24 this forum, if I wasn't being truthful with you?'

25 When I got the call that told me that

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1 thousands of my dollars I invested in this clown
2 was not going to be around, I was devastated. You
3 perpetrated fraud over 1,000 individuals using
4 your good name, your family's stellar reputation
5 amongst devout, churchgoing Christians, and again,
6 to perpetrate fraud."

7 I consider the nature of this and the circumstances of this
8 offense to be very, very serious, and very, very, very
9 troubling.

10 I've considered your history and your
11 characteristics. You don't have any prior criminal history.
12 You had a very good childhood, unlike most of the individuals
13 that I see in the criminal cases that I've had before me.

14 You have a great relationship with your parents. You
15 have one sibling Lashay (phonetic), who you are very close to.
16 You are in a stable marriage, apparently a strong marriage, and
17 you have one child who is one year of age.

18 You're in excellent health. You don't have any
19 mental or emotional health issues, no substance abuse issues
20 that would explain some of your behavior, maybe.

21 You have a high school education and an associate's
22 degree in business.

23 You do have an employment record, again unlike many
24 individuals I see before me in criminal cases. You have your
25 own musical publishing company.

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1 But as I was reviewing the presentence report, I
2 really didn't understand where your income was coming from and
3 how much income you were actually deriving from the different
4 businesses listed at paragraphs 53 through 57 of the
5 presentence report.

6 So I have considered your history and your
7 characteristics. I've considered the need for the sentence
8 imposed to reflect the seriousness of the offense, and again,
9 this is a very serious and troubling offense, to promote
10 respect for law and again to provide just punishment for what
11 you did.

12 Further, I've considered the need for the sentence
13 imposed to afford adequate deterrence to criminal conduct,
14 adequate deterrence to other individuals who would want to
15 perpetrate fraud on the public, to engage in Ponzi schemes.

16 I've considered the need for the sentence imposed to
17 protect the public from further crimes by you, though, quite
18 frankly, I don't view you as a future threat to engage in
19 criminal conduct.

20 I've considered the need for the sentence imposed to
21 provide you with needed educational or vocational training,
22 medical care or other correctional treatment in the most
23 effective manner.

24 I've considered the kinds of sentences available and
25 the sentencing range. The maximum sentence in this case is 20

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1 years. There was a Rule 11 which I accepted, and the advisory
2 guidelines are 151 to 188, and per the Rule 11, I am capped at
3 188. Probation is not an option. I do note that there have
4 been no restitution payments made so far.

5 I have again considered the kinds of sentences
6 available and the sentencing range. I've considered all
7 factors under 18 U.S.C. Section 3553(a) in imposing the
8 sentence that I'm going to impose upon you right now.

9 Again, you pled guilty to Count One, wire fraud with
10 a Rule 11 on October 3, 2012. Pursuant to the sentencing
11 Reform Act of 1984, the Court, considering the sentencing
12 guidelines which I've stated on the record and which are, of
13 course, advisory and the factors contained in 18 U.S.C. Section
14 3553(a), hereby commits you to the custody of the United States
15 Bureau of prisons for a term of 165 months.

16 Upon release from imprisonment, you shall be placed
17 on supervised release for a term of five years. You must pay a
18 special assessment of \$100, which is due immediately. You must
19 pay restitution in the amount of \$4,700 -- excuse me,
20 \$4,796,522, payable to the victims of your scheme, of your
21 fraud.

22 While in custody, you shall participate in the inmate
23 financial responsibility program. The Court is aware of the
24 requirements of this program and approves the payment schedules
25 of this program and orders your compliance.

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1 The Court is ordering that you pay a fine of
2 \$175,000. Mandatory drug testing is suspended.

3 While on supervision, you shall abide by the standard
4 conditions as adopted by the United States District Court for
5 the Eastern District of Michigan and shall comply with the
6 following special conditions.

7 Due to the order of restitution, the following
8 special conditions are imposed. You shall make monthly
9 installment payments on any remaining balance of the
10 restitution at a rate and schedule recommended by the probation
11 department and approved by this Court.

12 You shall not incur any new credit card -- new credit
13 charges or open additional lines of credit without approval of
14 your probation officer.

15 You shall provide your probation officer with access
16 to any requested financial information. All monies, income,
17 royalties, commissions earned or received shall be promptly and
18 accurately reported to the Probation Department. You shall
19 provide the Probation Department with copies of any and all
20 contracts, as well as any and all notifications or copies of
21 amendments.

22 And if determined appropriate by your probation
23 officer, you shall participate in a program approved by the
24 Probation Department for mental health counseling.

25 And that will be the sentence of this court. Again,

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1 why did I give you the sentence that I just gave you? I have
2 stated the 3553(a) factors on the record here.

3 No one knows why you did it. Again, you grew up in a
4 good home. You were taught the difference between right and
5 wrong. You come from a good family with a stellar reputation
6 in the community, not only in Detroit but throughout the United
7 States. Rather than adhering to the values that you were
8 taught, you caused a minimum of \$8 million in fraud to over
9 1,000 victims.

10 Again, as we discussed and you mentioned, you may
11 have believed that this investment was for legitimate reasons
12 for the first month, but upon finding out that it was a scam,
13 you didn't stop. You continued. And you left hundreds of
14 people in financial ruin; families destroyed, friendships
15 destroyed, savings destroyed.

16 And from the victims' letters, you even used the
17 church, the church or churches to perpetrate this fraud. And I
18 think it was a Ms. Hammond, was it, that spoke earlier, the
19 first victim?

20 MR. HAMMOUD: Hurt, Your Honor, Ms. Hurt.

21 THE COURT: Hurt, I apologize. Ms. Hurt mentioned
22 that she couldn't believe that she got yourself into the
23 situation, but when you're speaking on behalf of yourself, with
24 your name, from a church, I can see where almost anyone could
25 fall victim to this scheme, to this fraud. And hopefully this

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1 sentence will deter others from engaging in the same type of
2 conduct in the future. And that's the reason why I gave the
3 sentence that I gave you.

4 Okay. Mr. Hatchett, do you happen to have the Rule
5 11 in front of you?

6 MR. HATCHETT: Yes, I do, Your Honor.

7 THE COURT: Could you please turn to page 13,
8 paragraph seven, entitled "Waiver of Appeal"?

9 MR. HATCHETT: Yes.

10 THE COURT: Mr. Winans, do you see that paragraph?

11 DEFENDANT WINANS: Yes.

12 THE COURT: It reads, "Defendant, being you, waives
13 any right he may have to appeal his conviction. If the
14 sentence imposed does not exceed the maximum allowed by Part 3
15 of this agreement, the defendant, again being you, also waives
16 any right he may have to appeal his sentence.

17 If the sentence imposed is within the guideline range
18 determined by Paragraph 2(b), the government agrees not to
19 appeal the range, but retains its right to appeal any sentence
20 below that range."

21 And, Mr. Winans, did you hear what I just read to
22 you?

23 DEFENDANT WINANS: Yes, Your Honor.

24 THE COURT: Now, you may be entitled to appellate
25 review of your conviction and sentence. If you wish to appeal

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1 this conviction and sentence you must do so within 14 days.

2 Did you hear what I just said?

3 DEFENDANT WINANS: Yes, sir.

4 THE COURT: And if you cannot afford to hire an
5 attorney to represent you on appeal you need to file the
6 necessary indigency paperwork immediately with the Clerk of the
7 Court.

8 Did you hear what I just said?

9 DEFENDANT WINANS: Yes, Your Honor.

10 THE COURT: And if you wish to appeal this conviction
11 and sentence, I would suggest that you discuss that issue
12 immediately with your attorney, Mr. Hatchett.

13 Did you hear what I just said?

14 DEFENDANT WINANS: Yes, Your Honor.

15 THE COURT: Mr. Hammoud, any other sentencing issues?

16 MR. HAMMOUD: No, Your Honor.

17 THE COURT: Mr. Hatchett, any other sentencing
18 issues?

19 MR. HATCHETT: None, Your Honor.

20 THE COURT: Okay. Mr. Hammoud any objection to the
21 sentence?

22 MR. HAMMOUD: No, Your Honor. The government doesn't
23 have any Bostic-type objections.

24 THE COURT: Mr. Hatchett, do you have any objections
25 to the sentence?

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1 MR. HATCHETT: No, Your Honor.

2 THE COURT: All right. Thank you very much.

3 PROBATION: Is there an issue of voluntary surrender?

4 THE COURT: Mr. Hatchett?

5 MR. HATCHETT: Yes, Judge. I've discussed this
6 matter with Mr. Hammoud. The defendant, as noted in chambers,
7 has been extremely cooperative. He's no flight risk and he
8 will voluntarily surrender.

9 I would ask that the Court recommend a designation
10 somewhere within the State of Maryland, if possible.

11 THE COURT: Mr. Hammoud?

12 MR. HAMMOUD: I reviewed the letter submitted by
13 pretrial services to the Court regarding defendant's compliance
14 with his bond since the day he was in front of this Court to
15 take a plea, and they recommended he voluntarily surrender
16 because he complied with all the conditions of bond. And we
17 have no objection that he stays out on bond until the Bureau of
18 Prisons has a facility for him to surrender to. And I
19 understand the Court has no choice of which facility he goes
20 to.

21 THE COURT: That's correct. So there's no objection
22 by the government, so we'll allow a voluntary surrender. And I
23 will recommend -- I can't tell the Bureau of prisons where
24 Mr. Winans should go, but I will recommend facilities in the
25 Maryland area.

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1 MR. HATCHETT: I understand. Thank you, Your Honor.

2 THE COURT: Anything else, Mr. Hatchett?

3 MR. HATCHETT: Nothing further, Your Honor.

4 THE COURT: Mr. Hammoud?

5 MR. HAMMOUD: Nothing further, Your Honor. Thank
6 you.

7 THE COURT: Okay, thanks.

8 DEPUTY COURT CLERK: All rise.

9 (Court in recess at 2:56 p.m.)

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C E R T I F I C A T I O N

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I, Marie J. Metcalf, Official Court Reporter for the United States District Court, Eastern District of Michigan, Southern Division, appointed pursuant to the provisions of Title 28, United States Code, Section 753, do hereby certify that the foregoing is a correct transcript of the proceedings in the above-entitled cause on the date hereinbefore set forth.

I do further certify that the foregoing transcript has been prepared by me or under my direction.

s\Marie J. Metcalf 05-02-13

Marie J. Metcalf, CVR, CM (Date)